



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

January 20, 2022

Memorandum for: Deputy Commissioner, Trials

Re: **Detective Michael Skyers**
Tax Registry No. 943819
Manhattan Detective Squad
Disciplinary Case No. 2018-19394

The above named member of the service appeared before Assistant Deputy Commissioner Paul M. Gamble on August 18, 2021, and was charged with the following:

DISCIPLINARY CASE NO. 2018-19394

1. Said Detective Michael Skyers, while off-duty and assigned to Office of Equal Employment Opportunity, on or about June 19, 2018, In Orange County, New York, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit; said Detective was engaged in a physical altercation with his wife, [REDACTED]

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT
PROHIBITED CONDUCT**

2. Said Detective Michael Skyers, while off-duty and assigned to Office of Equal Employment Opportunity, on or about and between June 19, 2018 and June 23, 2018, in [REDACTED], New York, did fail and neglect to immediately notify the Operations Unit after being involved in an unusual police occurrence.

P.G. 212-32, Note

**OFF DUTY INCIDENTS
INVOLVING UNIFORMED
MEMBERS OF THE SERVICE**

In a Memorandum dated October 12, 2021, Assistant Deputy Commissioner Paul M. Gamble found Detective Michael Skyers guilty of all Specifications in Disciplinary Case No. 2018-19394, after Detective Skyers entered a plea of not guilty to Specification no. 1 and guilty to Specification no. 2. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the issues and circumstances in this matter, and agree with the findings of Assistant Deputy Commissioner Gamble. While I agree that the penalty is otherwise appropriate, I have taken into account the particular recent circumstances endured by Detective Skyers and therefore direct that the suspension days be penalized as vacation days.

Accordingly, Detective Skyers will enter into a post-trial settlement agreement in which he shall forfeit sixty-five (65) vacation days, be placed on one (1) year dismissal probation, and complete the 24-week OASAS counseling program.

If Detective Skyers does not agree to the terms of this post-trial negotiated settlement as noted, this Office is to be notified without delay.

A handwritten signature in black ink, appearing to read 'K. Sewell', written in a cursive style.

Keechant Sewell
Police Commissioner



POLICE DEPARTMENT

October 12, 2021

-----X

In the Matter of the Charges and Specifications :

- against - :

Detective Michael Skyers :

Tax Registry No. 943819 :

Manhattan Detective Squad :

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Javier Seymore, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: James Moschella, Esq.
Karasyk & Moschella, LLP
233 Broadway – Suite 2340
New York, NY 10279

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Said Detective Michael Skyers, while off-duty and assigned to Office of Equal Employment Opportunity, on or about June 19, 2018, in Orange County, New York, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit; said Detective was engaged in a physical altercation with his wife¹.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT -
PROHIBITED CONDUCT
2. Said Detective Michael Skyers, while off-duty and assigned to the Office of Equal Employment Opportunity, on or about and between June 19, 2018, and June 23, 2018, in Orange County, New York, did fail and neglect to immediately notify the Operations Unit after being involved in an unusual police occurrence.
P.G. 212-32, Note OFF DUTY INCIDENTS
INVOLVING UNIFORMED MEMBERS OF THE SERVICE

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on August 18, 2021. Respondent, through his counsel, entered a plea of Not Guilty to Specification 1 and pleaded Guilty to Specification 2. The Department called Lieutenant Jaspreet Sandhu as a witness, and Respondent testified on his behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent Guilty of the charged misconduct. I recommend a penalty of 30 suspension days, 35 vacation days, one-year dismissal probation, and a 24-week OASAS counseling program.

¹ The name of Respondent's wife is known to the Tribunal. In this memorandum, she will be referred to as "the Complainant."

ANALYSIS

The following is a summary of the facts which are not in issue.

On June 19, 2018, at approximately 2009 hours, police officers responded to Respondent's residence² on a reported domestic incident, where they interviewed the Complainant (Dept. Ex. 1; Dept. Ex. 6, pp. 8, 27). She told them that she and Respondent had a verbal dispute over money and paying bills. According to the Complainant, Respondent attempted to look through her wallet during the altercation, but she did not permit him to do so; Respondent then grabbed her shirt and pulled her hair. While the police officers were interviewing the Complainant, Respondent, who was not present when the police officers first arrived, appeared on the scene (Dept. Ex. 6, p. 29). According to the interviewing officer, Respondent admitted that there had been a verbal dispute over finances but denied that it had become physical (Dept. Ex. 6, p. 36). The police officers completed a Domestic Incident Report; they provided a copy to the Complainant, who informed them that she did not wish to pursue Harassment in the Second Degree (P.L. § 240.26) charges (Dept. Ex. 6, pp. 33, 38).

On June 20, 2018, the Complainant filed a Family Offense Petition.³ with the local Family Court (Dept. Ex. 2). In this petition, she alleged that on June 19, 2018, she and Respondent had an incident that escalated to physical abuse. According to the Complainant's Petition, Respondent called her demanding money to pay bills for their home⁴ (Dept. Ex. 6, p. 8). She told him that she would not give him the money because she needed it for herself and their

² The location of Respondent's residence is known to the Tribunal but does not appear in this memorandum in deference to his privacy.

³ In her petition, the Complainant alleges Respondent's commission of other family offenses besides the alleged acts on June 19, 2018 (Dept. Ex. 2; Dept. Ex. 5, pp. 15-22, 25-27, 29). These uncharged acts will not be considered in my findings.

⁴ Several months before this telephone conversation, Respondent had informed the Complainant that he was seeking a divorce. Respondent controlled the family's finances and took on greater responsibility when placed on Worker's Compensation due to a work injury. Respondent and the Complainant shared a joint bank account, into which she deposited monies (Dept. Ex. 2, p. 2; T. 96-97).

children; she claimed that he responded, "I will deal with you when I get home" (Dept. Ex. 6, p. 9).

In her Petition, the Complainant went on to state that she drove up to her home with their [REDACTED] and saw Respondent was waiting outside (Dept. Ex. 6, p. 9). She parked on the street, as opposed to in her driveway, out of concern that Respondent would block her car in. The Complainant and her daughters stepped out of the car and walked toward their home, with Respondent following them. He told her, "You have to pay the bill," to which she again replied that she would not (Dept. Ex. 6, pp. 10-11).

The Complainant entered her home and directed her children to go upstairs; once they had done so, she observed Respondent going into her car, supposedly looking for money (Dept. Ex. 2). She stated that when he did not find any cash inside her car, he came back inside and entered her room; he then grabbed her by her fanny pack, yanked her toward him, and tore her shirt (Dept. Ex. 5, pp. 8-10; Dept. Ex. 6, pp. 10-15). The Complainant attempted to flee, but Respondent grabbed her by her hair (Dept. Ex. 6, pp. 15-16). She tried to escape again, and Respondent grabbed her by her hair a second time, resulting in her falling to the floor (Dept. Ex. 6, p. 18). According to the Complainant, the couple's oldest child witnessed her falling to the floor and told Respondent to stop (Dept. Ex. 5, pp. 12, 14; Dept. Ex. 6, pp. 12, 13, 18). The Complainant then attempted to flee the home through the garage but was prevented from doing so by Respondent, who kept closing the garage door (Dept. Ex. 5, p. 11; Dept. Ex. 6, pp. 12, 18-19). Respondent again grabbed her braids; she told him to let go of them, and he did (Dept. Ex. 5, p. 13; Dept. Ex. 6, p. 19).

The Complainant eventually escaped the home and went to a neighbor's house (Dept. Ex. 5, pp. 5-6; Dept. Ex. 6, pp. 20, 22). Respondent eventually went to the neighbor's home and asked her to return home; when she refused, the neighbor told Respondent to leave (Dept. Ex. 6,

p. 23). According to the Complainant, Respondent returned to their home before taking their son to basketball practice; once he left the scene, she called 911 (Dept. Ex. 6, pp. 23-25, 26).

The Family Court issued a Temporary Order of Protection that day for the benefit of the Complainant against Respondent (Dept. Ex. 3; Dept. Ex. 6, p. 44). In that Order, Respondent was directed to stay away from her, their children, and their home until December 20, 2018, unless the Court extended the Order. An Amended Order of Protection⁵ was issued by the same Court on June 26, 2018, which rescinded the physical restrictions upon Respondent and, instead, directed Respondent to refrain from committing several enumerated criminal offenses against the Complainant (Dept. Ex. 4; Dept. Ex. 6, pp. 46, 47).

The following is a summary of the relevant evidence at trial.

Respondent testified that he had been a domestic violence detective in the 32nd Precinct since October 2018 (T. 88). He and the Complainant have three children, [REDACTED] (T. 91). By the time of the June 19, 2018, incident, they had been discussing divorce, as they had grown apart after having been together “for a very long time” (T. 93). They attempted to enter into a separation agreement, but the Complainant rejected the terms several times; according to Respondent, her refusal of the proposed terms led to the incident (*Id.*). Respondent denied that he and the Complainant were experiencing money issues, instead characterizing them as an “adjustment” (T. 96-97, 137-138). He described their family financial situation changing after the Complainant, who is a civilian Member of Service, was injured in a line-of-duty accident, and the Department cut her salary to 42% of her pre-injury compensation (*Id.*).

Respondent and the Complainant attended a basketball tournament in Ocean City, Maryland, in which their son was a player; according to Respondent, he informed her that while

⁵ According to the Complainant, the Amended Order was rescinded on July 20, 2018, with her consent.

she and the team would be lodged at a hotel, he had made other arrangements for himself⁶ (T. 94-95). He explained that he offered to allow her to stay in the room he had reserved in his name even though he would be at a different venue. Respondent testified that the Complainant agreed that she would pay for the room and that he could stay elsewhere (T. 95-96).

He testified that he was “shocked” when he learned during a telephone call on June 18, 2018, that she was refusing to pay the bill because “we mutually agreed over the weekend that she would be responsible for the \$432” (T. 97). Respondent raised the issue of the outstanding bill with the Complainant again on June 19, 2018, and she still refused to pay it (T. 98). He told her that the amount of the hotel charge was roughly equivalent to her car payment of \$420; since she claimed that she could not afford to pay the bill, he determined that she could not afford to keep her car and it would have to be sold (T. 98-99, 140-143). Respondent ended the call by telling the Complainant, “We’ll discuss this when I get home” (T. 98, 135).

Respondent claimed that when he arrived home and asked the Complainant for the keys to her car, she said, “The keys are on me. If you want the keys, come take them” (T. 99). On cross-examination, he testified that she said, “If you want the keys, the keys are in the fanny pack” (T. 144). Respondent claimed that he interpreted her statement as permission to take possession of the keys (T. 144, 172-173).

Respondent then went to unzip the Complainant’s fanny pack and noticed that her braids were tucked inside the belt. When he tried to open and reach into the fanny pack, which took up to 10 seconds, the Complainant pulled away, and the zipper got caught in Respondent's hand. According to Respondent, she said, “Michael, get off my fanny pack.” Respondent eventually let

⁶ The Complainant conceded that while she stayed in the hotel room, she took issue with Respondent staying in separate lodging with another team parent (Dept. Ex. 5, pp. 17-18).

go, and the Complainant, who was pulling away, fell backward to the floor (Resp. Ex. B; T. 103-104, 144-146).

Respondent asserted that because the Complainant's hair was tucked into the strap of her fanny pack, her pulling away from him would have tugged on her hair. Additionally, her shirt, which was "very inexpensive" and had holes in it, ripped. The Complainant then got up screaming after "less than a second" and left. Respondent stated that he did not hit her or intend to make her fall; he did not raise his voice, although he admitted his tone was "a little heavy." He conceded that when the Complainant fell, he did not assist her in getting up nor ask her whether she was alright. She said, "Get off me," and ran outside (T. 104-08, 147, 150, 166-67, 172-74).

On cross-examination, Respondent asserted that "[the Complainant] tried to leave though the garage door by pushing the garage door open several times. It wouldn't open. Some reason I don't know. So, she left the garage door, ran through the front door. Went to my driveway. That's where we saw the gentleman driving by" (T. 149-150).

After the Complainant ran outside, she tried to get a passing motorist's attention to call the police, then went to the next-door neighbor's door, and the neighbor tried to calm her down. She returned home crying, and Respondent attempted to calm her down but did not touch her. Respondent then left home to bring his son to basketball practice (T. 109-110, 149, 166-167).

After approximately 10 minutes, Respondent's mother called him to inform him that police vehicles were at his residence. Respondent came home and asked a police officer standing in his driveway, "Are you guys arresting me?" According to Respondent, the police officer said, "No. There's no incident here. There's no reason to arrest you." Respondent claimed that he was unaware that the responding police officers had prepared a Domestic Incident Report (DIR). Neither the Complainant nor the local police department told Respondent to vacate the home (T. 110-114, 152). After the police left, Respondent, the Complainant, and

their children had dinner. He admittedly did not notify the Department of the incident; he claimed that since he was unaware of the DIR, there was, therefore, "no incident" (T. 115-116).

On June 23, 2018, four days after the incident, Respondent heard a knock at the door. The Sheriff's Office served him an Order of Protection and told him to vacate the residence immediately. Respondent was not allowed to retrieve any belongings from home first; he only had his driver's license, Department identification, and car keys on his person. However, a police officer went upstairs and retrieved Respondent's firearms to take them with him since the Order did not prohibit Respondent from possessing weapons. Respondent went to a friend's home; he conceded that he did not borrow his friend's phone or ask anyone else to notify the Department of the Order of Protection at that time. Respondent's children eventually brought him a bag containing his belongings, including his personal and Department cell phones (T. 117-122, 167-69).

Respondent testified further that he realized he needed to notify the Department about the domestic incident at approximately 0200 hours the following day, June 24, 2018. When he began his tour at 0700 hours, he informed his captain of the incident and was ultimately placed on modified assignment with the Records Division; his weapons were removed (T. 120-23).

Respondent and the Complainant went to Family Court regarding the family offense petition she filed. According to Respondent, the judge decided that the couple's dispute was verbal and recommended marriage counseling. She then modified the order from "full stay-away order" to "refrain from contact." After attending a few sessions of counseling, the couple returned to Court and told the judge that they were "fine." The judge then vacated the Order of Protection. Approximately a week later, Respondent moved back into the home with the Complainant, where he still resides. Respondent said of marriage counseling: "Once we established how communication works, our relationship was 200 percent better than it was

before.” Respondent also completed Department domestic violence counseling, after which he was restored to full duty on October 15, 2018 (T. 123-28).

In a misconduct case involving allegations of domestic violence, the finder of fact must carefully consider the individual motivations of the parties to provide truthful information. When placed in proper context, the behaviors of the parties before and after the incident in question may also reveal evidence relevant to a credibility assessment. Finally, the degree to which competing narratives are logical and corroborated by independent evidence must be part of the credibility findings.

I credit the testimony of Lieutenant Jaspreet Sandhu, whom the Department called as an authentication witness. I find him a disinterested witness who testified consistently with his professional obligations as the case investigator.

The Complainant reported Respondent’s actions to her local police department at 2009 hours on June 19, 2018, approximately 90 minutes after the incident occurred. In the Domestic Incident Report prepared by the responding police officers, she stated the core elements of her allegations: that Respondent grabbed at her wallet but she “denied” him; that he grabbed at her shirt; and that he pulled her hair. The next day, she went to Family Court and filed a family offense petition in which she repeated the allegations in the Domestic Incident Report and provided additional details. These statements were logical, consistent with each other, and made close in time to the events they describe.

Department investigators interviewed the Complainant on July 12, 2018, and July 23, 2018. In each of these statements, she repeated the allegations she made in the Domestic Incident Report and the family offense petition. The investigator read the factual portions of the family offense petition to her, which she affirmed. These statements were also consistent with each other, as well as the Domestic Incident Report and the family offense petition. As a civilian

Member of Service, she provided official statements to Department investigators subject to the penalties of P.G. 203-08 and 206-13, providing an additional element of reliability.

Based upon the totality of the record, I find that the Complainant's hearsay statements, contained in Department Exhibits 1, 2, 5, 5-A, 6, and 6-A, bear sufficient indicia of reliability upon which to base findings of fact. I make this finding mindful that she did not appear before the Tribunal and present herself for examination; nevertheless, her statements were logical and consistent with other credible evidence in the case. As outlined in detail above, the timing of her initial outcries, the circumstances under which she made her statements, and the substance of those statements, taken together, strongly support a finding that her statements are credible.

In contrast, I find that Respondent's testimony before the Tribunal was permeated with self-interest. While any Respondent is interested in the outcome of the proceeding by the potential adverse consequences of a guilty finding, the Respondent's self-serving testimony and the selectivity of the evidence he presented in his defense made clear his incentive to advance an alternative narrative that lacked independent factual support.

Specification 1: Engaging in a Physical Altercation

I find that the Department has met its burden of proof by a preponderance of the relevant, credible evidence that Respondent engaged in a physical altercation with the Complainant on June 19, 2018.

The Complainant credibly alleged that Respondent grabbed a fanny pack she was wearing around her waist and pulled it with enough force that it pulled her toward him, tore the t-shirt she was wearing, and broke the belt of the fanny pack (Dept. Ex. 1; Dept. Ex. 2; Dept. Ex. 6 at 11-12, 14, 21, 37; Dept. Ex. 5 at 9-10). She also alleged that Respondent pulled her braids on three occasions (Dept. Ex. 1; Dept. Ex. 2; Dept. Ex. 5 at 13, 14; Dept. Ex. 6 at 12, 15, 19). When

Respondent pulled the Complainant's braids a second time, his actions caused her to fall to the floor (Dept. Ex. 2; Dept. Ex. 5 at 12-13; Dept. Ex. 6 at 12, 15).

I do not credit Respondent's assertion that the Complainant authorized him to go into her fanny pack; her exclamation when he made his first grab for the fanny pack, "Michael, get off me," which he conceded in his testimony, is inconsistent with a scenario where she supposedly granted him consent to go through it. Even the words Respondent attributed to the Complainant, which he contends were tantamount to consent, "If you want the keys, come take them" sound at odds with a genuine grant of consent.

I similarly do not credit Respondent's claim denial that he grabbed the Complainant's braids and t shirt unintentionally, asserting instead that each was inextricably bound with the fanny pack, causing the rending of her t-shirt and the pulling on her braids when he grabbed her fanny pack. While the Complainant conceded in her Department interviews that she did not think Respondent intended to tear her t-shirt, she was clear that he grabbed for it three times during the incident. She was also clear that he grabbed her braids twice to keep her from getting away from him: once causing her to fall to the ground inside the house and once in the garage to prevent her from leaving. Even if the Tribunal were to give Respondent the benefit of the doubt that the first pulling of the Complainant's braids was accidental, the credible evidence establishes that the second and third grabs were intentional. Based upon the foregoing, I find sufficient factual evidence to support a finding that Respondent engaged in a physical act of domestic violence on June 19, 2018.

I find further support for this finding in Respondent's attempts to prevent the Complainant from leaving the garage and his spontaneous utterance upon seeing the police in his driveway. I find that his physical act of trying to prevent the Complainant from opening the garage door was an attempt to prevent her from reporting the misconduct he engaged in, from

which I draw the inference of his consciousness of guilt. Similarly, his question to the police officer, “Are you guys going to arrest me?” makes no sense unless he was concerned that he might be arrested. This question, if posed by an innocent man, might be dismissed as paranoia; from a man who had just assaulted his wife, however, it is evident that he believed there was a basis for his arrest.

For all the reasons set forth above, I find Respondent Guilty of Specification 1.

Specification 2: Failure to Make a Notification

Based upon Respondent’s Guilty plea, I find him Guilty of Specification 2.

PENALTY

In order to determine an appropriate penalty, the Tribunal, guided by the Department Disciplinary System Penalty Guidelines (“Disciplinary Guidelines”), considered all relevant facts and circumstances, including any aggravating and mitigating factors established in the record. Respondent’s employment record was also examined (*See* 38 RCNY § 15-07). Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on January 10, 2007, has been found guilty of engaging in a physical altercation with his wife and failing to make proper notification to Operations that he had been involved in an unusual off-duty incident. The Department Advocate has requested the presumptive penalty for a physical act of domestic violence: 30 suspension days, dismissal probation, and a 24-week counseling program. Based upon the facts of this case, a greater penalty is warranted.

First, the Department's recommendation does not take into account the presumptive penalty for failing to make a notification, five penalty days. Second, I find sufficient evidence in the record to establish the following aggravating factors:

(1) Respondent engaging in the altercation while children were present (10 penalty days)

The Complainant made a credible assertion that the second time Respondent pulled her braids and she fell to the floor, her older daughter witnessed the altercation and called out to Respondent to stop before running back upstairs (Dept. Ex. 2; Dept. Ex. 6 at 12);

(2) Respondent damaged the victim's property during the altercation (15 penalty days)

The Complainant made a credible assertion that during the incident with Respondent, he grabbed at her t-shirt three times, resulting in the shirt being torn (Dept. Ex. 1; Dept. Ex. 2; Dept. Ex. 6 at 12, 14, 21, 37; Dept. Ex. 5 at 9-10).

(3) Respondent attempted to prevent the victim from leaving their home (10 penalty days)

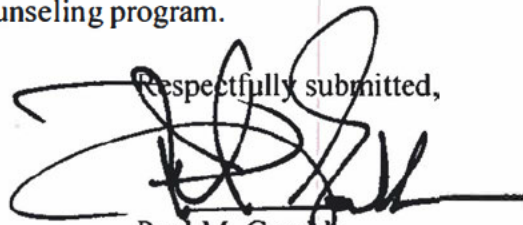
The Complainant made a credible assertion that as she attempted to flee her home through the garage, Respondent used his superior reach over her to close the garage door repeatedly as she tried to open it as a means of escape (Dept. Ex. 2; Dept. Ex. 6 at 18; Dept. Ex. 5 at 11).

I find Respondent's plea of Guilty to Specification 2 to be some evidence of mitigation but significantly outweighed by the intentional nature of his misconduct. While Respondent expressed confidence that his marriage has been enhanced through counseling, his behavior is inconsistent with the high standards expected of Members of Service. Moreover, Respondent is

currently serving as a Domestic Violence officer at his precinct. The facts of this case call for a significant sanction in the interest of good order and discipline.

I, therefore, recommend that Respondent be DISMISSED from the Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Administrative Code § 14-115(d), during which time he is to remain on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings. In addition, I recommend that Respondent forfeit 30 suspension days and 35 vacation days. I further recommend that Respondent attend a 24-week OASAS counseling program.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul M. Gamble", written over the typed name.

Paul M. Gamble
Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
DETECTIVE MICHAEL SKYERS
TAX REGISTRY NO. 943819
DISCIPLINARY CASE NO. 2018-19394

Respondent was appointed to the Department on January 10, 2007. On his last three annual performance evaluations, Respondent received 4.0 overall ratings of "Highly Competent" in 2017, 2019, and 2020. He has been awarded three medals for Excellent Police Duty.

Respondent has no disciplinary history. He was placed on Level 1 Force Monitoring from April 19, 2011, through June 20, 2012, for having received three or more CCRB complaints in one year. In connection with the instant matter, Respondent was placed on Level 1 Discipline Monitoring on August 15, 2018; that monitoring remains ongoing.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials